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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5667-N-03]

Supportive Housing for the Elderly Senior Preservation Rental Assistance Contracts: 60-Day Notice of Information Collection

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of request for public comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, HUD is issuing for public comment four documents for use in the Senior Preservation Rental Assistance Contract (SPRAC) program. HUD is seeking Office of Management and Budget (OMB) approval for the information collection described below. The purpose of this notice is to allow 60 days for public comment in the Federal Register preceding submission to OMB.

DATES: Comment Due Date: **[Insert Date 60 days after date of publication in the FEDERAL REGISTER.]**

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the rule.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Margaret Salazar, Acting Director, Office of Affordable Housing Preservation, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 6230, Washington, DC 20410; telephone number 202-708-0001 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Section 202 Supportive Housing for the Elderly Act of 2010 (Public Law 111-372,

124 Stat. 4077, approved January 4, 2011) (2010 Act) authorizes HUD to provide SPRACs with 20-year terms to owner-applicants (Owner-Applicants) and existing Section 202 properties that meet SPRAC eligibility criteria as established by HUD. The purpose of the SPRAC Program is to prevent the displacement of current tenants of certain projects assisted under HUD's Section 202 Supportive Housing for the Elderly program (Section 202 program) in the case of refinancing or recapitalization and to further preserve and maintain affordability of Section 202 Direct Loan projects. General authority for the prepayment of a Section 202 Direct Loan is provided by Section 811 of the American Homeownership and Economic Opportunity (AHEO) Act of 2000, as amended by the 2010 Act (12 U.S.C. 1701q note). Pursuant to this authority, SPRACs may be awarded by HUD to Section 202 properties with original interest rates of 6 percent or less (financed prior to 1974), as part of a recapitalization to address the physical needs of the property. In FY 2012, \$16 million was made available for SPRAC funding.

On January 8, 2013, at 78 FR 1224, HUD published a proposed notice in the Federal Register that presented for public comment the proposed process by which HUD would award SPRACs, including the proposed application process, as well as the proposed eligibility and selection criteria. HUD solicited public comment for a period of 60 days. HUD reviewed and considered the public comments received in response to the January 8, 2013, notice, and HUD is developing the final notice that will announce the process by which HUD will award SPRACs.

II. This 60-Day Notice

Documents for Review and Comment

Consistent with the Paperwork Reduction Act of 1995, this notice seeks comment, for a period of 60 days of four documents that HUD will use for the award of SPRACs.

1. Agreement to Enter into a Senior Preservation Rental Assistance Contract – Part I

(ASPRAC I)

The ASPRAC I, including exhibits, which may be attached or incorporated by reference, comprises the entire agreement between the Owner and HUD with respect to the matters contained addressed in the ASPRAC I. The exhibits that are part of the ASPRAC I include: the Senior Preservation Rental Assistance Contract (SPRAC) to be executed upon prepayment of the Section 202 Direct Loan (Exhibit A); the schedule of completion in stages if applicable (the exhibit should identify the units in each stage) (Exhibit B); and the schedule of Davis-Bacon wages, if applicable (Exhibit C). The ASPRAC I provides for the inclusion of additional exhibits that may be necessary or appropriate.

The ASPRAC I provides that neither party is bound by any representations or agreements of any kind except as contained in the ASPRAC I, any applicable regulations, and agreements entered into in writing by the parties which are consistent with this Agreement. The ASPRAC I further provides that nothing contained in the ASPRAC I shall create or affect any relationship between HUD and any contractors or subcontractors employed by the Owner in the completion of the project.

The ASPRAC I requires the Owner to certify that the site of the project for which HUD is committing funds is either (1) without occupants eligible for relocation assistance under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended; or (2) with occupants eligible for assistance the URA and Owner agrees to provide such assistance in accordance with URA and HUD requirements.

2. Agreement to Enter into a Senior Preservation Rental Assistance Contract – Part II

(ASPRAC II)

The ASPRAC II contains the following areas that specify the Owner's agreement to

undertake certain action, which include information and reporting requirements:

- Schedule of Completion, which addresses the timely commencement of work, the time for completion, and the possibility of delays, and the reporting requirements associated with commencement and completion of work.
- Marketing, which addresses the commencement and continuation of marketing of the project and notification requirements associated with the marketing.
- Execution of the SPRAC, which addresses the time of execution of the SPRAC, the completion of the various stages associated with work on the project; unleased units at the time of execution of the SPRAC, and HUD's examination of such units; leased units at the time of execution and HUD's examination of such units; and the amount of contract rents.
- Cooperation in Equal Opportunity Reviews, which addresses agreement by the Owner to cooperate with HUD in conducting monitoring and compliance reviews and complaint investigations;
- Compliance with standard federal laws related to federally-funded housing, which includes compliance with such laws the National Environmental Policy Act, Flood Disaster Protection Act, Clean Air Act and Water Pollution Control Act, Displacement and Relocation Assistance, Lead-Based Paint Poisoning Prevention Act, anti-lobbying requirements; and the Davis Bacon Act.
- Defaults by Owner, which addresses what constitutes a default by the Owner under the SPRAC, HUD's determination of default and corrective action that may be taken, including termination of the SPRA.
- Disputes, which provides that the Secretary of HUD or designee will resolve a dispute

that may arise between the Owner and a HUD Field Office, which the latter two are unable to resolve.

- Assignment, Sale or Foreclosure, which addresses the Owner's agreement that it has not made or will not make any sale, assignment, or conveyance or transfer of the project without seeking and receiving the prior written consent of HUD.
- Prevention of Conflicts of Interest, which addresses the prohibition of the officers, directors, stockholders and unauthorized representatives of the Owner having a financial interest in any contract in connection with the rendition of services, the provision of goods or supplies, project management, procurement of furnishings or equipment, construction of the project, procurement of the site or other matters related to the development or operation of the project.

3. Senior Preservation Rental Assistance Contract – Part I (SPRAC I)

The SPRAC I establishes the effective date, initial term, funding for the initial term of the SPRAC and renewal. The SPRAC requires the Owner to describe the project, to provide a statement of services maintenance and utilities to be provided by the Owner. The SPRAC also requires for the Owner to provide the following as exhibits to the SPRAC: (1) a schedule of SPRAC Units and SPRAC rents; (2) daily debt service; (3) an affirmative fair housing marketing plan; (4) the recorded Section 202 Use Agreement; and (5) the Agreement to Enter into a SPRAC.

4. Senior Preservation Rental Assistance Contract – Part II (SPRAC II)

The SPRAC II establishes the agreed-upon responsibilities and obligations of the Owner, the Contact Administration and HUD. The SPRAC II identifies the HUD regulations with which all owners of HUD assisted housing must comply, and that includes the owner of a project

assisted under SPRAC. The SPRAC II includes definitions that are applicable to SPRAC II but also SPRAC I. The SPRAC II reiterates the agreements contained in ASPRAC II, such as those pertaining to nondiscrimination, compliance reviews, the applicable property insurance such as property and liability insurance, flood insurance, assignment, sale, or foreclosure of the property, Davis-Bacon wage requirements, disputes, and conflicts of interest.

The SPRAC II also specifies certain information collection and reporting requirements, which are directed solely to the SPRAC projects and these include the owner's agreement to: maintain a written, chronological waiting list showing the name, race, gender, ethnicity and date of each person applying to reside in a SPRAC Unit at the subject project; establish a standard numeric threshold for the purpose of determining when it may be necessary to close the waiting list and temporarily cease accepting applications for SPRAC Units; furnishing a copy of its waiting list policies and procedures to HUD; furnishing to HUD, upon HUD's request, applications of admissions (including denial of admission); confirming all information provided on the application by the family applicants; preparing the HUD Lease between the families and the Owner in the form prescribed by HUD; submitting to the Contract Administrator, upon the Contract Administrator's request, a rent comparability study; submitting monthly requests to the Owner's Contract Administrator for SPRAC payments, and each month request must contain a certification by the Owner as to the accuracy and veracity of certain formation to the best of the Owner's knowledge; and submitting to the Contract Administrator within 90 days after the end of each fiscal year of the project, financial statements for the project that have been audited by an Independent Public Accountant in the form required by HUD.

All four documents are available for review in their entirety at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/mfh/presrv/presmfh/sprac_contracts.

Paperwork Reduction Act – Estimated Burden and Cost

Under the Paperwork Reduction Act (44 U.S.C. 3501-3520) (PRA), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to provide a 60-day notice in the Federal Register concerning each proposed collection of information before submitting the collection to OMB for approval.

To comply with this requirement, HUD is publishing this notice of the proposed information and recordkeeping and reporting, as set forth in the four SPRAC documents.

1. Descriptive Information

The Title of the Proposed Information Collection is Senior Preservation Rental Assistance Contracts.

The Need for the Proposed Information Collection and Use is to ensure proper use of federal funds, compliance with applicable HUD and federal requirements, and to allow for HUD to monitor compliance with HUD and federal requirements.

Agency Form Numbers N/A

Eligible Applicants are owners of Section 202 properties with original interest rates of 6 per cent or less (financed prior to 1974) when the property refinanced is to make capital repairs and the owner does not anticipate debt service savings from the refinance.

Status of Proposed Information Collection is new.

2. Specific Issues for Comment

With respect to the collection of information and reporting requirements in the four SPRAC documents, HUD invites comments on these topics:

- (1) Whether the proposed collection of information is necessary for the proper performance of responsibilities under the SPRAC program, including whether the information will have practical utility;
- (2) The accuracy of HUD's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

The public reporting burden for information collection and reporting requirements in the four SPRAC documents are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided in the following table:

3. Estimated Burden The estimated burden for the four SPRAC documents is as follows:

Information Collection	Number of Respondents	Frequency of Response	Responses Per Annum	Burden Hours Per Response	Annual Burden Hours
ASPRAC I	20	1	20	1	20
ASPRAC II	20	1	20	1	20
SPRAC I	20	1	20	2	40
SPRAC II	20	1	20	2	40
Totals	20	4	80	6	120

Dated: June 27, 2013

 Laura M. Marin, Acting General Deputy Assistant Secretary for
 Housing – Acting General Deputy Federal Housing Commissioner

[Billing Code 4210-67]

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